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Attorney Docket No.: B45182

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Capiau, et al.	Date:	<u>COPY OF PAPERS ORIGINALLY FILED</u>
Serial No.:	09/936,985	Group Art Unit: 1645	
Filed:	December 19, 2001	Examiner: V. Ford	
For:	Vaccine Against Streptococcus Pneumoniae		

Assistant Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

This paper is in response to the Restriction Requirement dated June 26, 2002. As this response is timely filed within the shortened statutory period for response of thirty (30) days, no fee is required. Please charge any additional requisite fees relating to this amendment and response to Deposit Account No. 19-2570.

Restriction Requirement Under 35 U.S.C. §§ 121 and 372

In response to the Restriction Requirement, Applicants elect Examiner's Group I consisting of Claims 1-9 and 11, with traverse. Applicants assert that all of the inventions listed as Groups I-IV relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they all possess the same or corresponding special technical features. However, Applicants prefer to argue the merits of this case, and in particular novelty over the Kuo et al. reference, if and when the Examiner makes a complete examination and issues an action under 37 C.F.R. § 1.104, thereby avoiding piecemeal prosecution.

Applicants hereby reserve the right to rejoin the restricted method claims of Groups II, III and IV under M.P.E.P. § 821.04.

Regarding the requirement to elect a single species for examination on the merits, Applicants elect Examiner's Species F, drawn to CbpA. All of the pending claims read on the elected species. Applicants understand that they will be entitled to consideration of claims to additional species upon the allowance of a generic claim.

Applicants respectfully assert that this response is complete with regard to the Restriction and Election requirements, and that no response to the Examiner's statements regarding anticipation is required at this time, since the instant Restriction and Election requirement does not constitute a complete action on the merits under 37 C.F.R. § 1.104.

Respectfully submitted,



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